



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 3, 2007

Ms. Alison Holland
Olson & Olson, L.L.P.
Wortham Tower, Suite 600
2727 Allen Parkway
Houston, Texas 77019

OR2007-08409

Dear Ms. Holland:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID #283070.

The City of Cleveland (the "city"), which you represent, received a request for a specified police report. You claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information that other statutes make confidential. You raise section 552.101 in conjunction with section 58.005 of the Family Code. Section 58.005 provides in part that "[i]nformation obtained for the purpose of diagnosis, examination, evaluation, or treatment or for making a referral for treatment of a child by a public or private agency or institution providing supervision of a child by arrangement of the juvenile court or having custody of the child under order of the juvenile court may be disclosed only to [certain listed individuals]." Fam. Code § 58.005(a). However, the documents you submitted to this office are law enforcement records created by the Cleveland Police Department for crime prevention purposes. This information was not obtained for the purpose of diagnosis, examination, evaluation, or treatment or for making a referral for treatment of a child. We therefore conclude that the city may not withhold any of the submitted information under section 552.101 of the Government Code in conjunction with section 58.005 of the Family Code.

Section 552.101 of the Government Code also encompasses common-law privacy. Common-law privacy protects information if (1) the information contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The type of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. In addition, common-law privacy protects the identifying information of juvenile offenders. *See Open Records Decision No. 394* (1983); *cf.* Fam. Code § 58.007. Upon review, we do not find that the information you have marked is considered intimate or embarrassing information or identifies a juvenile offender. Therefore, we conclude that the none of the submitted information is protected under section 552.101 in conjunction with common-law privacy, and the city may not withhold any of the information on that basis.

We note that you have also marked information that is subject to section 552.130 of the Government Code. This section excepts from disclosure information that relates to a Texas driver's license or motor vehicle title or registration. Gov't Code § 552.130. However, the driver's license number here belongs to the requestor. Pursuant to section 552.023, the requestor has a right of access to her own Texas driver's license number. *See id.* § 552.023(b) (governmental body may not deny access to person to whom information relates or person's agent on grounds that information is considered confidential by privacy principles). Accordingly, in this instance, all of the submitted information must be released to the requestor.¹

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

¹Since the requestor has a right of access to her driver's license number, the city must again seek a decision from this office if it receives a request for this information from a different requestor.

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Reg Hargrove
Assistant Attorney General
Open Records Division

RJH/jb

Ref: ID# 283070

Enc. Submitted documents

c: Ms. Nicolasa Venegas
31 County Road 3252
Cleveland, Texas 77327
(w/o enclosures)